

Exhibit 74

1
2 IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

3 Case No. No. 1:22-cv-00983-VEC

-----x

4 NIKE, INC.,

5 Plaintiff,

6 -against-

7 STOCKX LLC,

8 Defendant.

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9
10 August 24, 2023

10:07 a.m.

11
12 Video-recorded Deposition of
13 RICHARD LaMAGNA, an Expert Witness, taken
14 by Plaintiff, located at DLA Piper, 1251
15 Avenue of the Americas, New York, New
16 York, taken before Dawn Matera, a
17 Certified Shorthand Reporter and Notary
18 Public for the State of New York.
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<p>1 2 A P P E A R A N C E S: 3 4 DLA PIPER Attorneys for Plaintiff 1251 Avenue of the Americas New York, New York 10020 (212)335-4500 6 By: MICHAEL HYNES, ESQ. 7 michael.hynes@dlapiper.com GABRIELLE VELKES, ESQ. 8 gabrielle.velkes@dlapiper.com 9 10 DEBEVOISE & PLIMPTON LLP Attorneys for Defendant 11 66 Hudson Boulevard New York, New York 10001 12 (212)909-6000 13 By: MEGAN K. BANNIGAN, ESQ. mbannigan@debevoise.com 14 ANITA KAPYUR, Law Clerk akapyur@debevoise.com 15 16 17 ALSO PRESENT: 18 LAURA LEWIS, ESQ., In-house Counsel StockX 19 KIM VAN VOORIS, ESQ., In-House Counsel 20 MATTHEW CHIN-QUEE, Legal Videographer 21 ~oOo~ 22 23 10:05:50 24 10:05:50 25</p>	<p>1 2 Megan Bannigan from Debevoise & 10:07:57 3 Plimpton on behalf of StockX. And 10:07:59 4 with me is my colleague from Debevoise 10:08:02 5 Anita Kapyur and in-house counsel, 10:08:05 6 general counsel of StockX Laura Lewis. 10:08:09 7 THE VIDEOGRAPHER: Thank you. 10:08:14 8 Will the court reporter swear in the 10:08:15 9 witness, please. 10:08:16 10 R I C H A R D L a M A G N A, the 11 Witness herein, having first been duly 12 sworn by the Notary Public, was examined 13 and testified as follows: 14 EXAMINATION BY MR. HYNES: 10:08:27 15 Q. Good morning, Mr. LaMagna. 10:08:27 16 A. Good morning Mr. Hynes. 10:08:29 17 Q. Do you understand that you're 10:08:30 18 here to have your deposition taken? 10:08:31 19 A. I do. 10:08:35 20 Q. And do you know in what case 10:08:36 21 your deposition is being taken? 10:08:37 22 A. Yes, I do. 10:08:39 23 Q. Which one? 10:08:39 24 A. Nike versus StockX. 10:08:40 25 Q. Do you know what that case is? 10:08:42</p>
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<p>1 2 THE VIDEOGRAPHER: Good morning. 10:06:51 3 We are going on the record at 10:07 10:06:51 4 a.m. on August 24th, 2023. This is 10:06:54 5 media unit one of the videotaped 10:07:00 6 deposition of Rich LaMagna in the 10:07:02 7 matter Nike, Inc. v. StockX LLC in the 10:07:07 8 District Court, Southern District of 10:07:13 9 New York, case number 22-CV-0983. The 10:07:14 10 deposition is being held at 1251 10:07:22 11 Avenue of the Americas, New York, New 10:07:25 12 York. 10:07:27 13 My name is Matthew Chin-Quee 10:07:28 14 representing Veritext and I am the 10:07:30 15 videographer. The court reporter is 10:07:33 16 Dawn Matera from the firm Veritext. 10:07:34 17 Will all counsel please 10:07:38 18 introduce yourself. 10:07:41 19 MR. HYNES: Michael Hynes from 10:07:44 20 DLA Piper for the plaintiff. 10:07:45 21 MS. VELKES: Gabrielle Velkes 10:07:47 22 from DLA Piper for the plaintiff. 10:07:50 23 MS. VAN VOORHIS: Kim 10:07:52 24 Van Voorhis from Nike, Inc. 10:07:53 25 MS. BANNIGAN: Good morning, 10:07:55</p>	<p>1 2 A. Yes. 10:08:44 3 Q. Can you tell me? 10:08:44 4 A. It concerns allegations of 10:08:45 5 counterfeit, false advertising and unfair 10:08:48 6 business practices. 10:08:53 7 Q. Do you know what StockX is? 10:08:54 8 A. Yes, I do. 10:08:55 9 Q. Can you tell me what you think 10:08:57 10 it is? 10:08:58 11 A. It's an online secondary market 10:08:58 12 platform. 10:09:01 13 Q. I think I know what you mean by 10:09:02 14 online, but could you tell me what you 10:09:05 15 mean by secondary market platform? 10:09:07 16 A. Secondary market is a market 10:09:09 17 similar to Amazon or eBay where people 10:09:12 18 buy and sell products as opposed to a 10:09:17 19 direct vendor, as opposed to a vendor 10:09:24 20 such as Target or Walmart or something 10:09:27 21 like that. 10:09:30 22 Q. Okay. Would you agree that 10:09:31 23 counterfeit Nike products were sold on 10:09:37 24 the StockX platform? 10:09:39 25 A. No, I would not agree with 10:09:40</p>

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<p>1</p> <p>2 Q. Okay. Would you, based on your 14:26:01</p> <p>3 experience, would you agree with me that 14:26:04</p> <p>4 consumers are harmed when they 14:26:07</p> <p>5 unknowingly purchase counterfeit 14:26:09</p> <p>6 products? 14:26:11</p> <p>7 A. Harmed in what way? 14:26:11</p> <p>8 Q. In any way. 14:26:17</p> <p>9 A. Are you talking about physical 14:26:18</p> <p>10 harm? Are you talking about financial 14:26:20</p> <p>11 harm? 14:26:23</p> <p>12 Q. Any kind of harm you want. 14:26:24</p> <p>13 A. Consumers certainly can be 14:26:26</p> <p>14 harmed if they purchased counterfeit 14:26:28</p> <p>15 goods, inauthentic goods. 14:26:32</p> <p>16 Q. Do you agree that the sale of 14:26:35</p> <p>17 counterfeits can lead to a loss of 14:26:38</p> <p>18 revenue from legitimate businesses? 14:26:41</p> <p>19 A. That depends on the situation. 14:26:42</p> <p>20 I wouldn't make that an across-the-board 14:26:45</p> <p>21 judgment. 14:26:47</p> <p>22 Q. But it's possible, right? 14:26:48</p> <p>23 A. Well, again, it depends. 14:26:49</p> <p>24 Q. Do you agree with me that the 14:26:57</p> <p>25 sale of counterfeits can translate into 14:26:59</p>	<p>1</p> <p>2 Q. In your example, is there only 14:28:24</p> <p>3 one sale, one garment? 14:28:27</p> <p>4 A. Well, a pair of shoes. 14:28:29</p> <p>5 Q. I'm not following you. Can you 14:28:32</p> <p>6 break that down for me with like an 14:28:33</p> <p>7 example? 14:28:40</p> <p>8 A. Sure, a StockX example or 14:28:40</p> <p>9 something that could be applicable to 14:28:42</p> <p>10 StockX. If somebody buys a pair of 14:28:43</p> <p>11 sneakers and they don't wear them and 14:28:46</p> <p>12 they decide "I really don't want to keep 14:28:48</p> <p>13 these sneakers" or "Gee, I think the 14:28:50</p> <p>14 price has gone up on these sneakers" and 14:28:54</p> <p>15 they turn around and want to sell it, how 14:28:56</p> <p>16 has -- how has Nike suffered any damage 14:29:00</p> <p>17 from that? 14:29:03</p> <p>18 Q. Well, I guess if the person 14:29:04</p> <p>19 bought a counterfeit set of sneakers 14:29:08</p> <p>20 instead of an authentic set of sneakers, 14:29:09</p> <p>21 then they lost out on the sale, right? 14:29:12</p> <p>22 A. Well, but that presumes that 14:29:14</p> <p>23 that person would have bought that from 14:29:15</p> <p>24 Nike, that set or pair of sneakers from 14:29:20</p> <p>25 Nike. 14:29:25</p>
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<p>1</p> <p>2 lost jobs and opportunities for the U.S. 14:27:01</p> <p>3 economy? 14:27:05</p> <p>4 A. Yes, that's -- and that's 14:27:05</p> <p>5 something that I believe is addressed in 14:27:08</p> <p>6 the Homeland Security material. 14:27:09</p> <p>7 Q. Do you agree that the sale of 14:27:13</p> <p>8 counterfeits can compete with and/or 14:27:21</p> <p>9 replace genuine sales? 14:27:23</p> <p>10 A. Depends on the situation. Not 14:27:24</p> <p>11 if those sales have already been -- there 14:27:31</p> <p>12 has already been a first sale, then I 14:27:34</p> <p>13 find it hard to imagine how the brand 14:27:37</p> <p>14 holder can suffer any monetary damage if 14:27:42</p> <p>15 there is a second sale. 14:27:47</p> <p>16 Q. What do you mean by second 14:27:48</p> <p>17 sale? 14:27:51</p> <p>18 A. Well, as an example, let's say 14:27:51</p> <p>19 I buy an item of apparel. I decide I 14:27:53</p> <p>20 don't like it or I decide it doesn't fit 14:27:59</p> <p>21 or whatever, and I want to sell it on a 14:28:02</p> <p>22 third-party market. I don't think the 14:28:06</p> <p>23 seller or manufacturer of that piece of 14:28:09</p> <p>24 apparel loses anything because they have 14:28:11</p> <p>25 already made the sale. 14:28:14</p>	<p>1</p> <p>2 Q. Do you agree that the Internet 14:29:36</p> <p>3 made counterfeit investigations in a 14:29:38</p> <p>4 counterfeit seller is more difficult and 14:29:44</p> <p>5 costly? 14:29:47</p> <p>6 A. Yes. 14:29:47</p> <p>7 Q. Do you agree the sale of 14:29:48</p> <p>8 counterfeits can harm the reputation of 14:29:50</p> <p>9 the IP rights holder? 14:29:52</p> <p>10 A. The sale of counterfeits, just 14:29:53</p> <p>11 in general? 14:29:56</p> <p>12 Q. Yes. 14:29:57</p> <p>13 A. Can harm the reputation, yes, 14:29:58</p> <p>14 it can. 14:30:02</p> <p>15 Q. Do you agree with me that Nike 14:30:03</p> <p>16 is one of the most counterfeited footwear 14:30:08</p> <p>17 brands in the world? 14:30:12</p> <p>18 A. I haven't done any research, 14:30:13</p> <p>19 but I've read that it is. I suspect it 14:30:15</p> <p>20 probably is. 14:30:20</p> <p>21 Q. Do you know whether Nike 14:30:21</p> <p>22 counterfeit sneakers can be made with 14:30:24</p> <p>23 hazardous or toxic materials? 14:30:26</p> <p>24 A. I don't know. I don't know 14:30:28</p> <p>25 what kind of materials they are made 14:30:33</p>

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<p>1</p> <p>2 with. I have no expertise in 14:30:35</p> <p>3 manufacturing. 14:30:38</p> <p>4 Q. Is there anything in your view 14:31:13</p> <p>5 that makes the StockX platform attractive 14:31:17</p> <p>6 to counterfeiters? 14:31:18</p> <p>7 A. The StockX platform as compared 14:31:20</p> <p>8 to other platforms or as compared to 14:31:30</p> <p>9 what? 14:31:34</p> <p>10 Q. As compared to anything. 14:31:34</p> <p>11 A. Compared to anything. No, I 14:31:39</p> <p>12 think it's actually less attractive to 14:31:44</p> <p>13 counterfeiters because in my experience 14:31:47</p> <p>14 in law enforcement, anti-counterfeiting 14:31:49</p> <p>15 work, criminals, and I'm not talking 14:31:52</p> <p>16 about the one-off, you know, guy who 14:31:55</p> <p>17 unknowingly sells a pair of counterfeit. 14:31:59</p> <p>18 I'm talking about organized consistent 14:32:02</p> <p>19 sellers of counterfeit. They seek the 14:32:08</p> <p>20 path of least resistance. They are going 14:32:11</p> <p>21 to go somewhere where there is not very 14:32:13</p> <p>22 much scrutiny. And StockX goes through 14:32:16</p> <p>23 great lengths to try to avoid 14:32:19</p> <p>24 counterfeits. 14:32:21</p> <p>25 Q. So counterfeit fraud rings that 14:32:26</p>	<p>1</p> <p>2 Q. I'm trying to understand that. 14:33:29</p> <p>3 Is your testimony that organized 14:33:30</p> <p>4 counterfeiters, okay, like a ring -- are 14:33:33</p> <p>5 you familiar with that phrase, "ring"? 14:33:37</p> <p>6 A. Yes. 14:33:38</p> <p>7 Q. What is that? 14:33:38</p> <p>8 A. Well, a ring is a group of 14:33:39</p> <p>9 people. 14:33:41</p> <p>10 Q. A group of organized criminals? 14:33:43</p> <p>11 A. Criminals. 14:33:46</p> <p>12 Q. Who were trying to put together 14:33:47</p> <p>13 a counterfeit scheme, right? 14:33:48</p> <p>14 A. Right. People who conspire 14:33:50</p> <p>15 with one another. 14:33:53</p> <p>16 Q. And they are generally 14:33:54</p> <p>17 sophisticated at this, right? 14:33:56</p> <p>18 A. I would say most of them are. 14:33:57</p> <p>19 Q. And is it your testimony that 14:33:59</p> <p>20 that type of ring is going to target the 14:34:00</p> <p>21 platforms that are the least rigorous in 14:34:03</p> <p>22 their authentication; is that fair? 14:34:07</p> <p>23 A. Yes. 14:34:09</p> <p>24 Q. And do you think if a ring like 14:34:13</p> <p>25 that targeted a secondary market 14:34:14</p>
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<p>1</p> <p>2 are organized tend to target platforms 14:32:29</p> <p>3 that don't provide a lot of resistance; 14:32:35</p> <p>4 is that fair? 14:32:39</p> <p>5 A. That don't provide a lot of 14:32:40</p> <p>6 what? 14:32:42</p> <p>7 Q. Resistance? 14:32:44</p> <p>8 A. Resistance. Would you mind 14:32:44</p> <p>9 repeating the question? 14:32:48</p> <p>10 Q. Yeah, I don't think it was very 14:32:49</p> <p>11 good. So if you don't mind, I would 14:32:51</p> <p>12 rather ask another question. 14:32:55</p> <p>13 A. Okay. I don't mind. 14:32:56</p> <p>14 Q. Thanks. So you said that or 14:33:00</p> <p>15 you testified that you think StockX is 14:33:02</p> <p>16 less attractive to counterfeiters 14:33:05</p> <p>17 because, "In my experience in law 14:33:09</p> <p>18 enforcement and anti-counterfeiting work, 14:33:11</p> <p>19 criminals, and I'm not talking about the 14:33:14</p> <p>20 one-off, the guy that just sells a pair 14:33:17</p> <p>21 of counterfeit. I'm talking about 14:33:20</p> <p>22 organized consistent sale of counterfeit. 14:33:22</p> <p>23 They seek the path of least resistance." 14:33:26</p> <p>24 Do you remember that? 14:33:27</p> <p>25 A. Yes. 14:33:28</p>	<p>1</p> <p>2 platform, that would indicate a weakness 14:34:20</p> <p>3 in its authentication program? 14:34:23</p> <p>4 A. Not necessarily. 14:34:25</p> <p>5 Q. Would it be an indication of a 14:34:32</p> <p>6 robust program? 14:34:35</p> <p>7 A. Well, you know, it could be an 14:34:36</p> <p>8 indication of a robust program. It could 14:34:41</p> <p>9 be an indication, you know, of other 14:34:44</p> <p>10 things, depending on the objectives of 14:34:46</p> <p>11 the counterfeiters or the people selling 14:34:50</p> <p>12 counterfeit. 14:34:52</p> <p>13 Q. Okay. That's fair. But in 14:34:53</p> <p>14 general would you agree with me that the 14:34:54</p> <p>15 counterfeit ring would be more apt to 14:34:59</p> <p>16 target a platform whose authentication 14:35:03</p> <p>17 process was less rigorous? 14:35:05</p> <p>18 A. I think in general that is 14:35:09</p> <p>19 probably the situation. That criminals 14:35:11</p> <p>20 go for the path of least resistance. 14:35:16</p> <p>21 Q. And in your experience, would 14:35:17</p> <p>22 that ring continue to use a platform if 14:35:22</p> <p>23 it was able to kind of accomplish their 14:35:23</p> <p>24 goal? 14:35:25</p> <p>25 A. Presumably. That is kind of a 14:35:26</p>

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<p>1</p> <p>2 hypothetical, but presumably they would 14:35:34</p> <p>3 want to keep making money if it's 14:35:35</p> <p>4 profitable for them. 14:35:37</p> <p>5 Q. And they would keep using the 14:35:38</p> <p>6 same platform, you know, that allowed 14:35:39</p> <p>7 them to pull off the counterfeiting 14:35:42</p> <p>8 scheme, right? 14:35:44</p> <p>9 A. Possibly. Possibly. 14:35:44</p> <p>10 Q. You have seen that in your 14:35:48</p> <p>11 experience, though, haven't you? 14:35:49</p> <p>12 A. I have seen where the same 14:35:51</p> <p>13 individuals or the same front companies 14:35:53</p> <p>14 are selling things on third-party 14:35:55</p> <p>15 platforms, yeah. But, you know, it's not 14:35:58</p> <p>16 a hard and fast rule. But generally, 14:36:01</p> <p>17 again, they seek the path of least 14:36:03</p> <p>18 resistance. 14:36:05</p> <p>19 Q. And would you agree with me 14:36:07</p> <p>20 that the longer the scheme goes on, the 14:36:09</p> <p>21 larger the indicia of a weakness in the 14:36:12</p> <p>22 controls of the platform? 14:36:14</p> <p>23 A. When you say the longer the 14:36:23</p> <p>24 scheme goes on. You mean the longer they 14:36:25</p> <p>25 continue to sell? 14:36:27</p>	<p>1</p> <p>2 can. To my knowledge, it's not limited 14:37:46</p> <p>3 geographically, as far as I know. 14:37:52</p> <p>4 Q. Are those two things attractive 14:37:53</p> <p>5 to counterfeiters, having a global reach 14:37:59</p> <p>6 and allowing shipments from China to 14:38:02</p> <p>7 reach the end user? 14:38:04</p> <p>8 A. I think they could be 14:38:05</p> <p>9 attractive, yeah. 14:38:08</p> <p>10 Q. Is there anything that you can 14:38:12</p> <p>11 think of that makes Nike products 14:38:14</p> <p>12 especially attractive to counterfeiters? 14:38:16</p> <p>13 A. I'm sorry, is there anything 14:38:18</p> <p>14 that makes Nike products attractive? 14:38:21</p> <p>15 Q. Yeah, especially attractive to 14:38:24</p> <p>16 counterfeiters? 14:38:27</p> <p>17 A. Well, I think one thing that 14:38:27</p> <p>18 makes it very attractive to 14:38:31</p> <p>19 counterfeiters is this whole notion of a 14:38:33</p> <p>20 limited supply, limited editions of shoes 14:38:37</p> <p>21 that become collectors' items or at least 14:38:41</p> <p>22 very sought after, very desirable to the 14:38:46</p> <p>23 point where people will pay way above 14:38:48</p> <p>24 market value. And that, I think, acts as 14:38:51</p> <p>25 a magnet to counterfeiters because the 14:38:55</p>
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<p>1</p> <p>2 Q. Yes. 14:36:28</p> <p>3 A. Sometimes criminals become 14:36:34</p> <p>4 comfortable in what they are doing. It 14:36:38</p> <p>5 might be that they think there is not 14:36:40</p> <p>6 enough scrutiny or resistance and it 14:36:41</p> <p>7 might not be. 14:36:44</p> <p>8 So it's hard to say because 14:36:45</p> <p>9 that's kind of a hypothetical. 14:36:47</p> <p>10 Q. Okay. I understand. Does the 14:36:49</p> <p>11 StockX platform have a global reach? 14:36:59</p> <p>12 A. I believe it is accessible 14:37:02</p> <p>13 globally. 14:37:11</p> <p>14 Q. Does StockX facilitate sales 14:37:12</p> <p>15 from China direct to consumers? 14:37:14</p> <p>16 A. Direct to consumers? 14:37:17</p> <p>17 Q. I'm sorry, that's wrong. 14:37:20</p> <p>18 Another bad question. 14:37:22</p> <p>19 A. Okay. 14:37:23</p> <p>20 Q. Sorry. Can someone in China 14:37:23</p> <p>21 who hypothetically has a counterfeit set 14:37:29</p> <p>22 of Nike sneakers to sell use the StockX 14:37:35</p> <p>23 platform to deliver those shoes to the 14:37:37</p> <p>24 U.S.? 14:37:40</p> <p>25 A. Hypothetically, I think they 14:37:44</p>	<p>1</p> <p>2 profits are so good, so high. 14:38:58</p> <p>3 And it's been my experience in 14:39:02</p> <p>4 the anti- counterfeiting field that of 14:39:03</p> <p>5 course there are different levels of 14:39:07</p> <p>6 counterfeit, but the counterfeiters save 14:39:10</p> <p>7 the good stuff, if you will, for markets 14:39:12</p> <p>8 like the United States, Europe, 14:39:14</p> <p>9 Australia. 14:39:17</p> <p>10 Q. So would you agree with me that 14:39:24</p> <p>11 the StockX has attributes that are 14:39:26</p> <p>12 attractive to counterfeiters and Nike 14:39:28</p> <p>13 makes products that are attractive to 14:39:30</p> <p>14 counterfeiters? 14:39:32</p> <p>15 A. Nike's products, I think, are 14:39:33</p> <p>16 attractive to counterfeiters. They are 14:39:35</p> <p>17 highly desirable. But I think that 14:39:38</p> <p>18 because StockX does so much to eliminate 14:39:42</p> <p>19 counterfeits, it's less attractive to 14:39:45</p> <p>20 counterfeiters. 14:39:48</p> <p>21 Q. Based on your determination 14:39:50</p> <p>22 that there is a robust process in place? 14:39:55</p> <p>23 A. Based on my determination of my 14:39:57</p> <p>24 assessment of their program. Also based 14:40:02</p> <p>25 on what their employees, what their key 14:40:05</p>

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<p>1</p> <p>2 recollection, the only online platform 15:38:29</p> <p>3 was eBay. They were not selling 15:38:32</p> <p>4 pharmaceuticals. The people who were 15:38:33</p> <p>5 selling pharmaceuticals had their own 15:38:35</p> <p>6 websites. 15:38:37</p> <p>7 Q. Can you give me one example in 15:38:37</p> <p>8 your 25-year history where you yourself 15:38:43</p> <p>9 participated in collaboration between a 15:38:45</p> <p>10 brand and an online platform? 15:38:47</p> <p>11 A. Well, actually, yes, when I was 15:38:49</p> <p>12 at Microsoft -- 15:38:56</p> <p>13 Q. Great. Let's talk about that. 15:38:56</p> <p>14 A. -- we collaborated with eBay. 15:38:58</p> <p>15 Q. Okay. And was Windows 95 being 15:39:01</p> <p>16 sold on eBay? 15:39:06</p> <p>17 A. I don't remember which version 15:39:08</p> <p>18 of Windows or Office. But they were 15:39:09</p> <p>19 being sold on eBay. We would contact 15:39:12</p> <p>20 eBay. I actually got to know the lawyer 15:39:16</p> <p>21 in charge of those issues for eBay at the 15:39:20</p> <p>22 time, and we would exchange information 15:39:27</p> <p>23 on bad actors. 15:39:29</p> <p>24 Q. Okay. And would eBay give you 15:39:32</p> <p>25 information about the sellers? 15:39:39</p>	<p>1</p> <p>2 have collaborated with eBay, if eBay was 15:40:48</p> <p>3 returning the counterfeit Windows 95 15:40:51</p> <p>4 CD-ROMs back to the counterfeiters? 15:40:56</p> <p>5 A. You know, that's a 15:40:57</p> <p>6 hypothetical. 15:41:02</p> <p>7 Q. Absolutely. 15:41:05</p> <p>8 A. And I know what you're getting 15:41:06</p> <p>9 at, but StockX has a different model. I 15:41:08</p> <p>10 don't know that they returned the 15:41:15</p> <p>11 counterfeits or the inauthentic. I don't 15:41:16</p> <p>12 think that applies here. 15:41:21</p> <p>13 Q. Okay. Let's go to 14B here on 15:41:22</p> <p>14 page 7 of your June 2nd, 2023 report. 15:41:25</p> <p>15 A. Okay. 15:41:29</p> <p>16 Q. And in the first sentence there 15:41:30</p> <p>17 you write, "Professor Kammel ignores the 15:41:32</p> <p>18 role of Nike in the proliferation of 15:41:35</p> <p>19 counterfeit goods." 15:41:41</p> <p>20 Do you see that? 15:41:42</p> <p>21 A. Yes. 15:41:42</p> <p>22 Q. Is it your opinion that Nike 15:41:43</p> <p>23 plays a role in the proliferation of 15:41:44</p> <p>24 counterfeit goods? 15:41:47</p> <p>25 A. Well, you know, in the next 15:41:48</p>
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<p>1</p> <p>2 A. Sometimes they did. Sometimes 15:39:40</p> <p>3 they were careful about sharing that. It 15:39:42</p> <p>4 was mostly we, as the brand, would be 15:39:51</p> <p>5 providing information to them to help 15:39:53</p> <p>6 them either identify, you know, the 15:39:55</p> <p>7 postings of where the products are being 15:39:58</p> <p>8 sold and then collaborating, sharing 15:40:02</p> <p>9 information in terms of the sellers. 15:40:05</p> <p>10 Q. Now, eBay didn't actually take 15:40:08</p> <p>11 physical possession of the Windows -- I 15:40:09</p> <p>12 am sorry, the Microsoft products, right? 15:40:11</p> <p>13 A. No, they don't. Actually, 15:40:14</p> <p>14 their motto is either it comes -- 15:40:16</p> <p>15 merchandise comes directly from the 15:40:21</p> <p>16 seller to the buyer or from an eBay 15:40:23</p> <p>17 warehouse. 15:40:26</p> <p>18 Q. So they are like a matchmaker, 15:40:26</p> <p>19 right, correcting a buyer to a seller? 15:40:28</p> <p>20 A. Somewhat. That's the nature of 15:40:35</p> <p>21 online platforms. You could look at it 15:40:36</p> <p>22 as like a big flea market, if you will, 15:40:38</p> <p>23 or an open market where you have 15:40:42</p> <p>24 different vendors. 15:40:45</p> <p>25 Q. Do you think Microsoft would 15:40:46</p>	<p>1</p> <p>2 sentence I say, "Nike increases demand 15:41:50</p> <p>3 for counterfeits by artificially limiting 15:41:51</p> <p>4 editions of certain desirable or high 15:41:55</p> <p>5 heat sneakers, fails to provide a 15:41:58</p> <p>6 consumers' marketplace." 15:42:00</p> <p>7 Yes, I do. I feel that because 15:42:03</p> <p>8 of Nike's policies of limiting these 15:42:07</p> <p>9 editions, new editions of sneakers. 15:42:11</p> <p>10 Because of the incredibly high demand 15:42:13</p> <p>11 it's going to encourage counterfeit, 15:42:21</p> <p>12 possibly fraud. And where I disagree 15:42:23</p> <p>13 with Professor Kammel is that I think 15:42:26</p> <p>14 Nike bears some responsibility for 15:42:30</p> <p>15 helping to identify the fraud and the 15:42:34</p> <p>16 counterfeits. But they do nothing, 15:42:39</p> <p>17 whereas, StockX does a lot. 15:42:41</p> <p>18 Q. Nike does nothing where StockX 15:42:44</p> <p>19 does a lot, that's your testimony? 15:42:47</p> <p>20 A. As far as getting counterfeits 15:42:49</p> <p>21 off of third-party platforms, yeah. 15:42:53</p> <p>22 Q. Okay. And counterfeiting is a 15:42:55</p> <p>23 crime, right? 15:42:59</p> <p>24 A. Counterfeiting is a crime. 15:42:59</p> <p>25 Q. And when counterfeit Nike shoes 15:43:01</p>

Page 186	Page 188
<p>1</p> <p>2 are sold Nike is a victim of that crime, 15:43:06</p> <p>3 right? 15:43:08</p> <p>4 A. Generally speaking, yeah, they 15:43:08</p> <p>5 can be a victim. 15:43:16</p> <p>6 Q. So you're of the view that Nike 15:43:17</p> <p>7 played a role of the crime in which it is 15:43:20</p> <p>8 the victim? 15:43:22</p> <p>9 A. Well, I think all brands have a 15:43:23</p> <p>10 responsibility to do what they can to 15:43:26</p> <p>11 avoid counterfeits. And since they seem 15:43:30</p> <p>12 to feel strongly that StockX has 15:43:32</p> <p>13 counterfeits for sale, they have a 15:43:37</p> <p>14 responsibility, I think, to work with 15:43:40</p> <p>15 StockX and other platforms and also to 15:43:43</p> <p>16 consumers. 15:43:47</p> <p>17 I mean, at the end of the day 15:43:47</p> <p>18 it's all about protecting consumers and 15:43:49</p> <p>19 their interest. Nike does not provide 15:43:51</p> <p>20 any information for consumers to help 15:43:53</p> <p>21 identify potential counterfeits. 15:43:56</p> <p>22 Q. I am just going to ask one more 15:44:11</p> <p>23 time, and you can give the same answer if 15:44:12</p> <p>24 you want. 15:44:14</p> <p>25 Is it your view that Nike 15:44:15</p>	<p>1</p> <p>2 third-party platforms. 15:45:59</p> <p>3 Q. Can you go to 14E, which is on 15:46:00</p> <p>4 page 8 of your June 2nd, 2023 report. 15:46:10</p> <p>5 A. Right. 15:46:14</p> <p>6 Q. Here you -- you wrote all of 15:46:14</p> <p>7 this, right? 15:46:23</p> <p>8 A. I did. 15:46:23</p> <p>9 Q. No one else? 15:46:24</p> <p>10 A. I think earlier I said I wrote 15:46:25</p> <p>11 the entire report. 15:46:26</p> <p>12 Q. Okay. You definitely did? 15:46:27</p> <p>13 A. Is there a doubt about that? 15:46:31</p> <p>14 Q. Yes, is the frank answer. 15:46:38</p> <p>15 MS. BANNIGAN: Objection. 15:46:40</p> <p>16 MR. HYNES: I just asked his 15:46:43</p> <p>17 question, counsel. 15:46:45</p> <p>18 Q. If we go to E it says, "By 15:46:45</p> <p>19 advocating responsibility for identifying 15:46:47</p> <p>20 counterfeits in the secondary market, 15:46:50</p> <p>21 Nike has shifted the burden for 15:46:52</p> <p>22 protecting consumers onto marketplaces 15:46:53</p> <p>23 like StockX that have to set their own 15:46:57</p> <p>24 independent standards to verify products 15:46:59</p> <p>25 are deemed appropriate for sale." 15:47:03</p>
Page 187	Page 189
<p>1</p> <p>2 played a role in the crime of which it is 15:44:16</p> <p>3 the victim? 15:44:20</p> <p>4 A. Nike has a responsibility for, 15:44:20</p> <p>5 basically, contributing to the problem of 15:44:31</p> <p>6 counterfeits on StockX. Because of the 15:44:35</p> <p>7 limited edition, because of the value of 15:44:39</p> <p>8 these objects, counterfeiters are going 15:44:43</p> <p>9 to try to profit from that, try to take 15:44:49</p> <p>10 advantage of that. Nike places, from 15:44:52</p> <p>11 what I can see, the responsibility on 15:44:56</p> <p>12 StockX. 15:44:59</p> <p>13 Q. So is it your opinion that 15:45:20</p> <p>14 StockX tries to protect its consumers, 15:45:21</p> <p>15 but Nike does not try to protect its 15:45:25</p> <p>16 consumers? 15:45:27</p> <p>17 MS. BANNIGAN: Objection. 15:45:28</p> <p>18 A. No, I think that's not exactly, 15:45:28</p> <p>19 that's not what I said. What I am saying 15:45:35</p> <p>20 is that I think StockX goes to great 15:45:38</p> <p>21 lengths with regard to its platform to 15:45:40</p> <p>22 protect consumers. And Nike fails to 15:45:42</p> <p>23 provide any help to either consumers or 15:45:48</p> <p>24 third-party platforms. They just object. 15:45:52</p> <p>25 I think they object completely to 15:45:57</p>	<p>1</p> <p>2 Do you see that? 15:47:05</p> <p>3 A. Yes. 15:47:06</p> <p>4 Q. Can we tell me what -- when you 15:47:07</p> <p>5 write "Independent standards" are you 15:47:10</p> <p>6 referring to a written set of standards? 15:47:12</p> <p>7 A. Well, I am referring to the 15:47:14</p> <p>8 standards that StockX has adopted because 15:47:20</p> <p>9 they don't get any help from Nike as far 15:47:23</p> <p>10 as product verification or product 15:47:27</p> <p>11 authentication. So they are left to 15:47:29</p> <p>12 their own devices, basically. 15:47:34</p> <p>13 Q. My question is simply are the 15:47:36</p> <p>14 standards in writing which you referred 15:47:38</p> <p>15 to? 15:47:40</p> <p>16 A. Well, we can look at their 15:47:40</p> <p>17 procedures. 15:47:42</p> <p>18 Q. Is that what you mean here, 15:47:43</p> <p>19 their written procedures? 15:47:45</p> <p>20 A. Shifted the burden of 15:47:47</p> <p>21 protecting customers to set their own 15:47:50</p> <p>22 independent standards to verify. Well, 15:47:52</p> <p>23 yes, it is the procedures and their 15:47:53</p> <p>24 policies towards verification, which is 15:47:56</p> <p>25 to physically identify every product, 15:47:58</p>

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1

2 Q. When you wrote this report, why 18:52:27

3 didn't you just write, put paragraph 90 18:52:29

4 right under paragraph 89? 18:52:33

5 A. Because it's an appendix -- 18:52:37

6 it's submitted as an appendix, as a 18:52:38

7 separate. Appendicis are usually at the 18:52:40

8 end. 18:52:47

9 Q. Why did you make paragraph 90 18:52:47

10 an appendix instead of putting it in the 18:52:48

11 body of the reports as 90 comes right 18:52:51

12 after 89? 18:52:54

13 A. Because these are all, these 18:52:55

14 are research items. 18:52:56

15 MR. HYNES: Okay. No further 18:53:02

16 questions. Do you have anything? 18:53:03

17 MS. BANNIGAN: No further 18:53:04

18 questions. 18:53:05

19 MR. HYNES: Okay. Then we are 18:53:06

20 off the record. 18:53:08

21 THE VIDEOGRAPHER: This marks 18:53:08

22 the end of the deposition. We are 18:53:09

23 going off the record at 6:53 p.m. 18:53:11

24 (Time noted: 6:53 p.m.)

25

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1

2 ACKNOWLEDGMENT OF DEPONENT

3

4 I have read the foregoing

5 transcript of my deposition and except

6 for any corrections or changes noted on

7 the errata sheet, I hereby subscribe to

8 the transcript as an accurate record of

9 the statements made by me.

10

RICHARD LaMAGNA

11

12 SUBSCRIBED AND SWORN before

13 and to me this ____ day of _____,

14 2023.

15

NOTARY PUBLIC

16

17 My Commission Expires:

18

19

20

21

22

23

24

25

Page 292

1

2 CERTIFICATION

3

4 I, DAWN MATERA, a Notary Public

5 for and within the State of New York, do

6 hereby certify:

7 That the witness whose testimony

8 as herein set forth, was duly sworn by

9 me; and that the within transcript is a

10 true record of the testimony given by

11 said witness.

12 I further certify that I am not

13 related to any of the parties to this

14 action by blood or marriage, and that I

15 am in no way interested in the outcome of

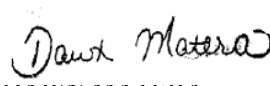
16 this matter.

17 IN WITNESS WHEREOF, I have

18 hereunto set my hand this 29th day of

19 August, 2023.

20

21 

22 DAWN MATERA

23

24

25

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1

2 I N D E X

3 Witness Page

4 RICHARD LaMAGNA 4

5 Examination By:

6 Mr. Hynes 4

7 Ms. Bannigan 267

8 Mr. Hynes 275

9

10

11 E X H I B I T S

12 LaMagna Page

13 Exhibit 1 Expert report of Richard 28

LaMagna

14

15 Exhibit 2 Speech Transcript - 80

Richard C. LaMagna Oral

Testimony Regarding

Anti-Counterfeiting

Amendments of 2003

17

18 Exhibit 3 Speech Transcript: 80

Richard C. LaMagna

Testimony Before the House

Subcommittee on Courts,

the Internet and

Intellectual Property, the

Global Threat of Software

Counterfeiting

22 Exhibit 4 ISO Standard 22383 105

23 Exhibit 5 November 17th, 2020 118

article by Taylor Lee

24

25

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
4:25	Do you know what that case is?	Do you know what that case is about ?	Transcription Error
7:11-12	My impression from the information that I read and learned	My impression from the information that I've read and learned	Transcription Error
9:13	Is that –	Is that – I swear I'm	Transcription Error
11:21-22	to make money off of that	to make money off of those	Transcription Error
17:13-14	You would say roughly, roughly three months ago.	I would say roughly, roughly three months ago.	Transcription Error
21:10	Roughly, yeah.	Roughly, I think , yeah.	Transcription Error
22:24	When did that call take place	How long – when did that call take place	Transcription Error
26:07-08	I don't know if I was ever normally instructed	I don't know if I was ever formally instructed	Transcription Error
28:18-19	We are going to mark this as LaMagna 1.	We are going to mark this as Exhibit LaMagna 1.	Transcription Error
30:04-05	And you issued an invoice that tells you how many hours	And you issued an invoice that says you how many hours	Transcription Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
33:19-20	So we'll get into the specifics a little bit.	So we'll get into the specifics in a little bit.	Transcription Error
40:21-22	I might of advised them on other anti-fraud measures.	I might have advised them on other anti-fraud measures.	Clarification
42:13-14	Is it your recommendation that the platform provides	Is it your recommendation that the platform provide	Clarification
43:05-08	if the platform had made a referral to law enforcement, how enforcement	if the platform had made a referral to law enforcement, law enforcement	Transcription Error
49:18-19	their online counterfeiting program	their online anti- counterfeiting program	Transcription Error
55:13-15	It's when a brand holder or an IP holder wants find out	It's when a brand holder or an IP holder wants to find out	Transcription Error
61:15-16	Well, for one I had a background, a long background	Well, for one I had a background, a strong background	Transcription Error
61:24-62:02	ISACA, which is Information Systems, Audit, Control Association.	ISACA, which is the Information Systems Audit and Control Association.	Clarification

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
63:19-20	I would not have been as an auditing function.	I would not have had an auditing function.	Transcription Error / Clarification
69:12-13	I did not see --	I did not see evidence where -	Transcription Error
77:05-06	I know they hire so-called sneaker-heads .	I know they hire so-called sneakerheads .	Typographical Error
79:10-11	The information they provided to me	It was the information they provided, for me,	Transcription Error
84:18-19	Is there anyway that a user of Office 97	Is there any way that a user of Office 97	Typographical Error
87:25-88:02	the top of your consulting firm, right?	the top is your consulting firm, right?	Transcription Error
107:09	Ms. Laura Ritza .	Ms. Laura Rizza .	Typographical Error
110:12	I got there 9:30.	I got there at 9:30.	Transcription Error
111:03	Ms. Sabba .	Ms. Saba .	Typographical Error
112:24-113:02	I believe my assessment of their program was valid and effective assessment.	I believe my assessment of their program was a valid and effective assessment.	Transcription Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
115:12-14	Did you consult any authoritative sources in connection with your valuation	Did you consult any authoritative sources in connection with your evaluation	Transcription Error / Clarification
117:23-24	There is an example	They're an example	Transcription Error
119:25	In fact it somewhat echos	In fact it somewhat echoes	Typographical Error
120:03-04	So it's your testimony that this Gartner article echos	So it's your testimony that this Gartner article echoes	Typographical Error
123:21-22	they measured that against what's in the database	they measure that against what's in the database	Clarification
130:22-23	Is there any other authoritative sources	Are there any other authoritative sources	Clarification
139:02-03	did you examine a StockX program	did you examine StockX's program	Transcription Error
141:03-04	before you put the report together on January 2nd, 2023	before you put the report together on June 2nd, 2023	Clarification
143:12-13	then find it hard to imagine	then I find it hard to imagine	Transcription Error / Clarification

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
161:24	their credit?	their credit cards ?	Transcription Error
164:5-6	it's a very large online seller of a third-party platform	it's a very large online seller, a third-party platform	Transcription Error
164:9	they have had difficult doing that.	they've had difficulty with doing that.	Transcription Error
167:15	undo emphasis	undue emphasis	Typographical Error
170:11-13	Do you think StockX could ever have honestly claimed that 100 percent of their products that are sold	Do you think StockX could ever have honestly claimed that 100 percent of the products that it sold	Transcription Error
172:15	sellers selling counterfeit	sellers selling counterfeits	Transcription Error
183:14	their motto is either it comes	their model is either it comes	Transcription Error
184:9-11	I don't know that they returned the counterfeits or the inauthentic.	I don't know that they return the counterfeits or the inauthentic items .	Transcription Error/ Clarification
184:18-19	proliferation of counterfeit goods ."	proliferation of counterfeits ."	Transcription Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
184:23-24	proliferation of counterfeit goods ?	proliferation of counterfeits ?	Transcription Error
185:5-6	fails to provide a consumers' marketplace.	fails to provide consumers a marketplace.	Transcription Error
185:11	it's going to encourage counterfeit	it's going to encourage counterfeits	Clarification
188:19	advocating responsibility	abdicating responsibility	Transcription Error
194:19	divulging anything,	divulging anything secret ,	Transcription Error
194:25	what they did was very standard and typical	what they did is very standard and typical	Transcription Error
195:2-3	the anticounterfeiting field. And is not a trade secret.	the anticounterfeiting field and is not a trade secret.	Transcription Error
195:23-24	And number 33 is "National Prescription Opioid"	And number 33 is " In Re: National Prescription Opioid"	Transcription Error
196:7	I don't know the exact term	I don't know the correct term	Transcription Error
196:12-13	I was retained -- and I am still doing it.	I was retained – it varied by case ; I am still doing it.	Transcription Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
196:15-16	four companies, it's depending on the case	four companies, depending on the case	Transcription Error
197:24-25	He could have protected his brand and himself	He could have protected his brand himself	Transcription Error
199:13	I would have to go back	I would also have to go back	Transcription Error
201:13-15	part of the research of Analysis Group was to go online	part of the research that Analysis Group did was to go online	Transcription Error/ Clarification
204:5	Alp Vision	AlpVision	Typographical Error
204:7	Alp Vision	AlpVision	Typographical Error
204:9	Alp Vision	AlpVision	Typographical Error
204:19	Alp Vision	AlpVision	Typographical Error
205:11	Alp Vision	AlpVision	Typographical Error
205:18	Alp Vision	AlpVision	Typographical Error
205:21	Alp Vision	AlpVision	Typographical Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
207:11-12	let's ask Laura to go to the room.	let's ask Laura to leave the room.	Transcription Error
209:17-18	Alp Vision	AlpVision	Typographical Error
209:20-21	Alp Vision	AlpVision	Typographical Error
210:7	include hyped limited drops	includes hyped limited drops	Transcription Error
211:6-7	What do you mean by artificial demand?	What do you mean by artificial demand? Is it fake demand?	Transcription Error
213:2-3	again, but I talked about	again, what I talked about	Transcription Error
217:5	StockX's counterfeiting program	StockX's anticounterfeiting program	Transcription Error
219:6-9	those were the only policies at that time, when in fact some of them I think existed before that.	those were the policies only at that time, when in fact some of them I think existed before that.	Clarification
221:10-12	Yeah, I think some of these I had looked at the article. I think that probably I saw it before June 2nd.	Yeah, I think some of these I had looked at the article -- I think that probably I saw it before June 2nd.	Transcription Error

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
224:4-5	I am not, you know, quite sure for the purpose of the question.	I am not, you know, quite sure the purpose of the question.	Transcription Error
225:25- 226:1	I mean largely across the board in general.	I mean broadly , across the board, in general.	Transcription Error
227:8-9	same way as StockX or when the other platforms does.	same way as StockX or one of the other platforms does.	Transcription Error
229:2-3	That's right. Operating procedures.	That's right. Their operating procedures.	Transcription Error
243:17-19	If they didn't. If they were cavalier about it, they wouldn't fire people.	If they didn't, if they were cavalier about it, they wouldn't fire people.	Transcription Error
252:14-15	I recall correctly from the deposition	If I recall correctly from the deposition	Transcription Error
256:13	Sneakerstrup	Sneakerstrut	Transcription Error
257:4	10,000 plus	\$10,000+	Transcription Error
268:3	one of the Professor Kammel's reports	one of Professor Kammel's reports	Clarification

Deposition Date: 8/24/2023**Deponent:** Richard LaMagna – Errata Sheet**Case Name:** *Nike, Inc. v. StockX LLC*, No. 22 CV 983 (VC) (SN)

Page(s): Line(s)	Now Reads	Should Read	Reason
268:9	I heard that StockX refunded his money	I learned that StockX refunded his money	Transcription Error
286:2	elicit goods	illicit goods	Typographical Error
290:7	Appendicis	Appendices	Typographical Error

I, Richard LaMagna, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on August 24, 2023; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.

DATED this 26 day of September, 2023.

Richard C. LaMagna

Richard LaMagna